AUTHENTIC COPY.

THE

DEFENCE

OF

Lieutenant-Colonel John Bell,

Of the First Battalion of

Madras Artillery,

ON

HIS TRIAL AT BANGALORE,

BEFORE

A GENERAL COURT-MARTIAL,

AS IT WAS READ IN COURT BY HIS COUNSEL,

CHARLES MARSH, ESQ.

Barrister of the Supreme Court of Judicature, and the King's Advocate in the Vice-Admiralty Court at Madras

LONDON:

PRINTED AND SOLD BY

BLACK, PARRY, & KINGSBURY,

7,

LEADENHALL-STREET.

1810.

CHARGE.

LIEUTENANT-COLONEL JOHN BELL, of the Madras Artillery, and late commanding the Fort and Garrison of Seringapatam, charged by the Officer commanding the Army with having, in subversion of all good Order and military Discipline, and in violation of the Rules and Articles of War for the better government of the Company's Forces, joined in and headed a most dangerous and alarming Mutiny and Sedition, which took place in the said Garrison betwixt the 30th Day of July last and the 23d Day of August following, during which period the Garrison fired on the Troops of his Majesty, and those of the Company, and their Ally the Rajah of Mysore, and seized on the Public Treasury; and he, LIEUTENANT-COLONEL JOHN BELL, *declared his resolution not to deliver up the Fort and Garrison to the proper Authority.*

By Order of Major-General Gowdie, Commanding the Army.

(Signed) *T. H. S. CONWAY.*

FORT ST. GEORGE,
Oct. 9, 1809.

SENTENCE.

"GENERAL ORDERS.

"Head-Quarters, Choultry Plain, March 8, 1

"THE following parts of the confirmed proceeding a General Court-Martial, assembled at Bangalore by o of Major-General GOWDIE, commanding the army chief, on the 1st day of November, 1809, and of wh Major-General WARDE is President, are published to army.

Sentence as passed on the 9th of December, 1809.

"The Court are of opinion, that the Prisoner, Lieutenant-Co JOHN BELL, is guilty of the Charge preferred against him, w being in violation of the Articles of War, and subversive of good and military discipline, they do sentence the said Lieutenant-Co JOHN BELL to be cashiered, and do further declare him unwort ever serving the Hon. Company in any military capacity whatsoeve
(Signed) "HENRY WARDE, Major-General and Presi
(Signed) "W. ORMSBY, Deputy Judge Advocate."

Revised Sentence, as passed the 27th of Februery, 1810.

"The Court, having re-considered the evidence brought before t adhere to their former opinion.
(Signed) "HENRY WARDE, Major-General and Presi
(Signed) "W. ORMSBY, Deputy Judge Advocate."

"I perfectly agree with the Court, that the Priso Lieutenant-Colonel JOHN BELL, of the corps of A lery, is guilty of the crimes charged against him, a do therefore confirm the sentence.
(Signed) "F. GOWDIE, Major-Gener
"Commanding the Army in Chief."

"Although the Officer commanding the army has c firmed the sentence of the General Court-Martial. wh has adjudged 'Lieutenant-Colonel JOHN BELL to 'cashiered, and declared unworthy of ever serving 'Honourable Company in any military capacity w 'soever,' he feels it a sacred duty he owes to his K his Country, and the service to which he has zealously devoted forty-three years of his life, to exp his pointed disapprobation of the punishment awar the Prisoner, which, in his opinion, bears no propor to the atrocity of the crimes so clearly proved in dence on the face of the proceedings. The Officer c manding in Mysore will be pleased to order Mr. J BELL to proceed to the Presidency immediately, for

THE

DEFENCE

OF

LIEUTENANT-COLONEL JOHN BELL,

&c.

Major-General Warde, and Gentlemen of this Court-Martial,

I HAVE looked forward with some impatience, to the opportunity which is now afforded me, of making my defence. I pretend not to that philosophy which sometimes renders a man, who is conscious of innocence, unmoved under accusation. I have much at stake upon the event of this enquiry. My life, my honour, and all that is dear to a man, who has hitherto lived without blame or reproach, are involved in its issue.

But there is one circumstance in this proceeding, which is a matter of public congratulation. I mean the revival of Courts-Martial, to determine on military accusations; for they afford to the honour and reputation of an officer, a better security than those secret enquiries, or rather that arbitrary discretion, acting without any enquiry at all, to which the most innocent and meritorious individual was not long since exposed, without the means of confronting his accuser, or even of knowing his accusation.

The present proceeding brings with it this also of consolation and joy, that whatever solicitudes I may feel, or whatever difficulties I may encounter, I am tried by men on whom the laws of honour, and the obligations of conscience impose a duty as binding, and guarded by sanctions equally as sacred, as the solemn oath which they have taken. When I look around me, and see who they are that constitute this tribunal, I know that I am safe from that proscription, which, a few months back, overhung the army, and diffused a gloom over public and private life; and which, subverting all the rules

of reason and justice, inspired innocence itself with the terrors of guilt. Before such a court, therefore, I can feel nothing beyond those anxieties to which every man must be subject, who has to deliver himself from a charge affecting his dearest and most important interests.

Referring to that charge, you will perceive, gentlemen, that it imputes to me the highest of military offences. Nor will you think me unreasonable in demanding the ordinary privilege of every accused man — that, in proportion to the magnitude of the crime with which he is charged, or of the penalties to which it is subject, the evidence against him should be clear, precise, and uncontradictory: that it should leave no doubt concerning that which is the essence of every crime; the guilty intention, as well as the overt acts by which that intention is to be inferred.

The common-place, but humane maxim, that every man is presumed to be innocent till the contrary is proved, is not more founded in truth and in equity, than that which flows from it as a consequence and a corollary; that the proba-

bilities of innocence are encreased in proportion to the atrocity of the offence. In my own instance, this maxim will be allowed perhaps an additional authority, when you throw into the scale of these rational and humane presumptions, my long, laborious, and faithful service; a character to this moment unimpeached; a rank in the army too high; and an experience of military duty too deeply impressed, and too gradually acquired, to render it easy of belief that at this late period of my life, I should have placed myself at the head of a dangerous and alarming mutiny against the Government, I had so long served with fidelity and honour.

It is not, however, upon presumptions that I will lean. I rest my defence on the evidence, and the conclusions which that evidence will force on your enlightened minds; challenging only the privilege which every upright judicature permits to the accused, of bringing the evidence adduced against him to the test of a legitimate, but strict and severe inquisition.

And while you are guided by these rules towards that inference, on which my fate depends,

you will, I am sure, consider the intention with which the acts imputed to me were committed, as a question of paramount importance. The inverse of this proposition would lead to consequences as abhorrent from justice as common sense. Mutiny without a mutinous intention is an absurdity in language, as it is in law. To separate the qualities of the act from the intentions of the agent; to select for crimination naked and insulated facts, abstracted from the designs of the heart, or the contemplations of the mind: torn from their context, and stripped of their relations, would confound the eternal and immutable distinctions between right and wrong. But I will not insult your understandings by topics so clear and indisputable. Acquainted with the world and its affairs, and knowing how often it happens, that human nature is thrown into a conflict of duties, and beset by motives of almost equal, though contradictory impulse, I need not apprehend, that you will adopt that narrow and illiberal rule of judgment, which, in pronouncing upon human actions, excludes all consideration of the difficulties by which they

were prompted, or the exigencies out of which they arose.

In this respect, I might justly complain of the manner in which the facts stated in the charge have been urged against me. Not that I throw any blame on the gentleman to whom the unpleasing office of public accuser is devolved. I can feel for the difficulties of an arduous task; and I would not augment them by complaint or reproach. But he is not answerable for the infirmities of his cause. His cause required the suppression of all which preceded and produced the dreadful exigency under which I acted. In this charge, and in the opening address he read to you, the overt acts stand alone, as if they were unaccompanied by any circumstances to explain, to palliate, or excuse them; or, what is of more consequence, by any necessities to urge and to authorise them.

I shall hereafter submit to you a few comments on the evidence which has been adduced against me. I shall extract, from that evidence, fairly, and without sophistry, the proofs and presumptions of my innocence. I shall state,

also, the testimony I have to produce in my defence. But, in order that the whole of my conduct, connected with the late unhappy events, may stand before you, I shall, in mere justice to myself, take it up from a somewhat earlier stage; that from the whole series of my acts, the whole series of my intentions may be reflected as in a mirror before you. I shall do this with simplicity, but with truth. If it is necessary to shew, that measures in which I had no concern, tended to produce the unfortunate emergency in which I was placed, I shall advert to them as far as my defence requires it. I shall abstain from all further animadversions on them. I shall not question their wisdom, or their expediency; but I shall trace them, as constituting in part the causes which produced the agitation, errors, and calamities of the late troubled period; as having led to a most unexampled crisis in the affairs of British India, and generating with new circumstances, new rules of conduct for those who had the peace and discipline of the army at heart, and were anxious to prevent the effusion of blood in civil and domestic warfare.

And here, it is not foreign from the strict law and condition of my defence, to observe that acts of mutiny against the state, committed by a man of my standing in the service, would, in common probability, have been the offspring of that spirit of combination and systematic resistance to the Government, which the Judge-Advocate stated to have been prevalent in the army antecedently to the dates specified in the charge. A mutinous insurrection against the legal authorities would more probably have been meditated by those, who having taken an early part in this commotion, had been tinctured with its passions, than by one who studiously kept aloof from it: by one who, on every occasion, urged the duty of submission to the local Government, wherever his example or remonstrance could influence, and who was wholly disconnected with those who resented what they deemed the wrongs of the army. It is out of the ordinary course of belief, that such a man should, on a sudden, belie the whole tenor of his conduct, and forerun the authors of this disturbance, by placing himself at the head

of a mutiny, when, in the heats and agitations which produced it, he never in the slightest degree sympathized or participated. It is fitting, therefore, that you should know what was my deportment, prior to the date of these charges, that you may the better see the dispositions and character of the man, who is now dragged as a Mutineer before you.

I arrived from England late in February last. What have generally been considered as the predisposing causes of this dissention, the quarrel of General Macdowall with Sir G. Barlow, and the removal of the Adjutant-General and his deputy, for issuing the orders of their superior officer, had already taken place. I found a most unhappy altercation had already begun between Sir G. Barlow and the Company's army. Of these feelings I did not partake. I found them, indeed, too generally diffused, and too deeply impressed, to be within the reach of my remonstrance. But on every occasion, when remonstrance could influence, I uniformly recommended the patient reference of the real, or imaginary grievance, to the superintending au-

thority at home. I was told that if I was seen at Sir G. Barlow's table, I should be disgraced in the eyes of the army, and cut off from all intercourse with my brother officers. I dined with Sir G. Barlow notwithstanding this denunciation. I was told that if I carried on the common offices of politeness with Lieutenant-Colonel Munro, the Quarter-Master-General, I should be subject to the same penalties. I openly renewed my acquaintance with Lieutenant-Colonel Munro. These dissentions I considered wholly foreign to me. If my mature standing in the army, or habits of antient friendship, and mutual respect, gave any authority to my opinions, or weight to my admonitions, they were not suppressed, or languidly urged, in recommending obedience, peace, and discipline. I signed no address; no memorial. Such were the intentions which I cherished. It is not easy to bring them in regular proof before you. They are seen only by those eyes, to which alone the workings of the human heart are visible. But, professing no other purpose but that of inculcating by advice, and enforcing

by example, the necessity of submission and of discipline, it is your province to see, whether in any subsequent passages of my conduct, and even in those which stand recorded as matters of crimination against me, I have voluntarily turned aside from the path on which I set out; and whether even the worst of those acts, which, abstracted from my motives, would give some colour to the accusation, may not be reconciled upon genuine and legitimate principles of judgment, to the moderation and forbearance, by which I proposed to govern my conduct, as soon as I perceived the agitations of the army.

I dwell the more anxiously on this topic, because a letter has been put in evidence against me, which I wrote on the 6th of August to Colonel Davis, in which I insisted on the uniform moderation of my conduct, and adverted to the order of the 1st of May as one of the causes which led to the disorders then prevailing in the garrison. I do not meddle with the expediency or justice of that order. But it is a necessary part of my defence, to remind you, that not only in the garrison of Seringapatam,

but through the whole army, it had generated, if not revolt, a sullen disobedience, which gradually ripened into a spirit of resistance; and that resistance was carried on by means of an extensive and gigantic combination, animated with all the energies of despair. The army saw their most revered and beloved officers, endeared to them by the participation of common service, and common peril, sent by the stroke of a pen into exile and degradation, without trial or enquiry. At the mercy of informers, whom they could not confront, they were delivered over to the often doubtful chance of vindicating their characters before the Court of Directors, against the weight, authority, and influence of the local Government. To many this was a sentence of death: because that is a sentence of death, which strips life of its consolations and supports. Innocence itself trembled. From the penitent it cut off the possibility of return. It enflamed the guilty with the violence of despair. It was considered as a virtual deprivation to the army of their right to trial by Court-Martial; a right given to them by an Act of Parliament.

which is yet unrepealed, and of which they could not be divested without a gross violation of law. It was considered, with what justice is hereafter to be determined, that the sending officers to England, who had not been judicially cashiered, was a power which was not sanctioned by any of the acts for the regulation of our governments in India, and which was contrary to the spirit of all of them. They saw, in the fate of others, their own fortunes and reputations laid prostrate at the feet of spies and informers, who are always the meanest, the basest, and most abandoned of God's creatures.

If the opposition to the local Government had been confined to the walls of Seringapatam, and had manifested itself in no other part of the army, I should not, perhaps, be entitled to any benefit from this topic; but if no portion of this immense establishment was uninfected, the difficulties I had to contend with, and the embarrassment into which I was thrown, ought not, and, I trust, will not, be excluded from your consideration. Let me observe, that the key of my conduct in every part of this transaction,

was the great peril before my eyes, which I was anxious to avert. I steered myself by this course. I endeavoured to discharge my duty to my Sovereign and my honourable employers, by averting from this part of the empire the most portentous evils, by which it was ever threatened.

Whatever discontent was produced by this order, as I insisted in the letter now in proof, it received from me, neither an helping hand nor an encouraging voice. Then, and to the very last, I felt no anxiety but for the peace and discipline of the army. It were an endless task to enumerate the various irritations and discontents which, diverging, as it were, from different points, at length terminated in the results which form the subject of these proceedings. The memorable business at Masulipatam, which has been slightly alluded to in the course of the evidence, is a matter of perfect notoriety. Whether the measures were wholesome, or otherwise, I must repeat, is a question with which I do not interfere. It is sufficient that they were causes adequate to the production of

those unhappy effects, which every wise man foresaw, and every good man must regret. I am almost tired of wading in these waters of bitterness. I cannot, however, forbear to touch on the measure of the 26th of July at the Mount; because, by turning to the evidence of Major Macdowal, you will observe that it connects itself with the subject of this enquiry. It is proved that that measure, which was neither more nor less than that of seizing the officers of the native corps by surprize, and separating them from their corps, on their refusal to sign a test, had contributed to the agitation of the garrison; an agitation, as he has distinctly proved, not confined to the Europeans, but shared by the native corps of the garrison. I advert to that measure at present, only as a link in the chain of causes, which impelled those dreadful necessities; for having encountered which, according to the best of my judgment, I stand now charged as a Mutineer before you.

I have thus deemed it a justice which I owed myself on this awful occasion, to impress on your minds, that, amidst the encreasing agita-

tions of the army, I kept uniformly aloof from all league or combination against the Government. By example, by authority, by entreaties, I endeavoured to appease the minds of those over whom I had the slightest influence. Not a single document or fact has been brought forward to shew, that, prior to the dates of these charges, I shared in the discontents of the army, or took any part in the expression of them, by signing any of the various Addresses or Memorials, in which the sentiments of the army were circulated.

I mention these circumstances, to shew the improbability of that sudden transition of conduct, which must be imputed to me, if the allegations of this charge are believed. It is irreconcilable to the ordinary motives of human action, that a man, who, down to so late a period, had abstained from all active participation in the proceedings of the public body to which he belonged, and who does not appear, by any act or expression, to have caught the contagion of their passions, should suddenly place himself at the head of the mutiny which

you are now investigating. A mutiny against the Government would have advanced gradually, according to the ordinary workings of human passions, and not have jumped suddenly from the most passive obedience to open resistance.

Having made these preliminary observations, the length of which will find its apology in the serious character of these charges, and the necessity of calling in every topic of rightful vindication, connected with the subject, I shall now proceed to shew, that the evidence for the prosecution, has not only left the charge of Mutiny unsubstantiated, but that it completely negatives and contradicts it; claiming only that enlarged and liberal interpretation, which every candid mind must be disposed to put upon acts, considered in reference to the necessities by which they were impelled, and the spirit and intention from which they proceeded. I shall endeavour to do this, according to the course the prosecutor has taken, and under the distinct heads into which the charge is divisible, at the same time urging those reasonings, and

those statements, which are material to my defence.

You will observe, that I am charged with having headed a most dangerous and alarming mutiny and sedition, which took place within a specified period. And, during that period, three specific overt acts are charged to have been committed, as illustrative of the mutiny which I had headed and joined: the seizing of the public treasure; the firing on the troops; and the refusal to deliver up the garrison to the proper authorities. You will perceive, that, to substantiate this charge against me, my active participation and concurrence in the alleged mutiny must be established. I am not charged here for not having taken prudent measures to quell a sedition carried on by others, or for not having prevented acts, in which I did not myself concur. But it is of the essence of the crime imputed to me, that my heart and soul were engaged in the mutiny, and in the mutinous acts, by which it is manifested. In proving, therefore, such a charge, the grand and presiding principle of all criminal jurisprudence, and which

I am sure is present to your minds, will secure me from the effect of evidence which is applicable only to others. I have studiously abstained from interposing objections, when this sort of testimony was adduced; for I was well aware, that whilst the Court evinced an honourable and laudable solicitude to omit no enquiry, how remote soever in its application, that tended to elucidate these transactions, it would have looked as if I had been willing, by objections, to suppress or shut out important and relevant testimony. The Court will, however, do me the justice to acknowledge, that I have given no interruption to the enquiry, even where the proof has not exactly corresponded with the rules of evidence. I have thought it beneath me to rest my defence on mere defect of proof. I have neither knowingly withheld, nor hesitated to admit any document that was necessary to elucidate the subject; looking for my refuge, not in the weakness of the prosecutor's proofs, but in the strength of my own innocence.

It is at the same time obvious, that I am called on not to defend others, but myself. I

am answerable only for my own acts, or for those of others in which I participated. But, in order to connect me with this commotion, as its head and its origin, a great deal of evidence is gone into, of which the object was to shew my concurrence and privity in what was transacted; but the result of which has been only that of implicating others; and, I am sorry to say, of recording on the proceedings, matters, which may, in some sort, affect your judgments with regard to those, over whom similar charges are depending. But it is with triumph that I beg you to review the evidence, which applies to that part of the subject; and first, to that which has been given by Captain Webster and Lieutenant Beaumont. The prosecutor seemed desirous of extracting from these gentlemen a variety of circumstances, but, in particular, all or some of the following facts, which were sought for, I presume, as indications of a mutinous or seditious mind, at that early stage of the transaction: that in not attending at Colonel Davis's with the other officers, on the 30th, I disobeyed the orders of that officer; that I or-

dered, or was privy to, or concurred in the forcible restraint laid on his person; and that I was a member of a committee, who, it seems, till the 5th of August, exercised the military power over the garrison, or, at least, checked and controlled it. See whether any of these facts have been proved, or rather see whether they are not absolutely negatived.

With respect to Colonel Davis's orders, contained in Captain Webster's letter of the 30th, the Court will see that I carried them into execution without hesitation. The object of assembling them has been already explained by what has been stated to have taken place at the interview itself. It was to admonish the officers to return to their duty, and not to believe the report which had agitated the garrison, as to a meditated seizure of their persons by the aid of the Mysore troops.

And here it is to be observed, that the ostensible and avowed purpose of calling such a meeting, from the very nature of it, rendered my presence unnecessary. Had I attended there, I should have virtually admitted, what I

here solemnly deny, that I myself, with the other officers of the garrison, was an object of admonition to a return of duty, which, I think, it would not be expected that any officer of rank or character, under such circumstances, would have willingly admitted. It is sufficient for me, that I carried the order into effect with the utmost alacrity, and that, in so doing, I willingly and actively contributed with Colonel Davis to the restoration of tranquillity in the garrison; although I considered, and trust I shall be pardoned for considering, that, having transgressed no duty, I needed no admonition to return to it. But if you attend to the evidence, you will perceive from Captain Webster's statement, that, in absenting myself on that occasion, I disobeyed no order whatever; for no order, or message, that could be interpreted into a military order, was given me. It seems that in consequence of the official letter above alluded to, I carried Colonel Davis's requisition into immediate effect, by summoning the officers as speedily as the dispersed distances at which they lived would permit. Colonel

Davis apprehending, lest some agitation might have been created in their minds concerning the purpose of their being convened, said that he would dispense with their attendance. I replied, that the officers were scattered over the Fort, and that many of them lived out of it, as accounting for the delay. Colonel Davis was satisfied with that reply. He had the same apprehension a second time, and again dispensed with their attendance. I strongly urged, however, the propriety of their waiting on Colonel Davis, as they had all been assembled, and were ready to go. Upon that, Captain Webster observed, that he believed Colonel Davis expected me to wait upon him with the other officers. I replied, "I saw no occasion for it." Now, it is impossible to infer from this intimation, that Colonel Davis had positively ordered my attendance. We had both the same object in view; the restoration of confidence and tranquillity in the garrison. I gave my fullest aid to Colonel Davis in the effecting of that object by calling them together; and as it appeared to me that it would have been counteracted by the

alarm and perplexity of mind, which the sudden revocation of the order would have created, I was solicitous that they should wait on Colonel Davis: and being aware that the meeting was for the purpose of quieting their alarms, and admonishing them to their duty, my answer was the natural observation of a man who did not feel the alarm, and had no need of lectures upon duty, — "I see no occasion for it."

But, gentlemen, what will you think of this as a matter of crimination against me, when I observe to you, that it was from my own most anxious communications with Colonel Davis on that subject, that he became informed of the alarm and uneasiness of the garrison, and deemed the adoption of some measure requisite to restore its tranquillity. But more particularly, a letter I wrote on the 24th of July mentioned the agitated state of the garrison. That letter, and Colonel Davis's acquiescence in what I proposed, shall be produced to you, if necessary, in evidence. To that measure I gave all the effect I could. I disobeyed no order. As far as you have hitherto gone along with me

in the transactions of the 30th, I trust I am not evincing an indecent confidence, when I ask you what mutinous or seditious disposition is to be inferred from my acts? I cannot but feel that I begin my defence with no inauspicious omen, when a circumstance evidently imputed to me as a disobedience of orders, turns out to be the most exact and literal execution of them.

Proceed further with me, and enquire whether there is any particle of evidence by which you can fairly conclude that I authorized, or knew of, or concurred in the supposed restraint of Colonel Davis. You will pardon the importunity with which I remind you, that I am, in justice, only responsible for acts, purely and emphatically my own. Admitting, for the sake of the argument, that Colonel Davis was actually under restraint, what testimony fixes it upon me? Is it that of Captain Webster? Turn to his deposition. It amounts only to this: That he had written an official letter to me, stating that it had come to Colonel Davis's knowledge, that orders had been given at the gates that no person could pass without authority from me.

To this, it seems, I gave no answer. But, in order to make it my act, the Town-Major informed Captain Webster that an answer was preparing, and till that was received, Colonel Davis could not be permitted to leave the Fort; that the Town-Major was going to repeat those orders; that Captain Cadell further said to the witness, that Colonel Bell requested him not to leave the Compound. The most transient reference to such testimony sufficiently shews it to be of that species, which is, of all others, the most fallacious and doubtful. It is, in strictness, nothing more than that which Captain Webster heard from the Town-Major. But I do not wish it to be rejected on that narrow exception. Let me recal your attention to the state of the garrison; to the alarm that had gone forth; to the assumption of authority by a Committee, of the existence of which I was ignorant; and to the total absorption of my influence and authority. Under such circumstances, you will find little difficulty in absolving me from all share or participation in the act. You will consider it not only improbable, that, to

stamp with authenticity their own resolutions, the officers who had erected themselves into the over-ruling power of the garrison, would use my name, as a mere matter of course, in furtherance of their own designs. It would, therefore, be highly dangerous to depart from the course of legitimate evidence. But, in the words attributed to the Town-Major, there is something that seems wholly repugnant to the supposition, either that I had received the letter, or sent any answer to it, or that I had given any orders upon the subject of it. Captain Cadell says, that "an order was preparing." Is not this more reconcilable to the hypothesis, that a Committee were taking the letter into consideration, and were preparing an answer? For, if Captain Cadell came with any authority from me, it is natural to suppose that I should have delivered him the order at once, either verbally or in writing, instead of taking any time to prepare an answer; a circumstance which strongly implies that it was undergoing some consideration from persons who were deliberately consulting upon it. All question, however.

as to the fact, is silenced by Major Macdowall's deposition, from which it may be easily seen, that I had then no influence over this procedure whatever. In truth, it should seem the restraint was rather imaginary than real; for Colonel Davis himself, yielding to the urgent importunity of the officers, had acquiesced in their proposal to stay at Seringapatam for a moderate length of time.

Waving, however, that topic, Major Macdowall expressly shews, that the restraint of Colonel Davis did not proceed from my order. He says, that he called on Colonel Davis on the evening of the 30th, in consequence of having heard he was under some apprehension of being under restraint; "knowing, at the same time, it was not intended by the officers of the garrison that he should consider himself under the smallest." Does this consist with the probability of my having ordered Colonel Davis into restraint? On the contrary, does it not render that fact almost impossible? For it would be grossly absurd to suppose, that if I had given such an order, or even been aware of the circumstance, Major Macdowall would not

have gone directly from me with an order either to release Colonel Davis, or to quiet his apprehension of being in arrest. The words "officers of the garrison," clearly designate by whose authority the arrest (if there was any arrest at all) was sanctioned.

The same observations will apply with equal force to that passage of Captain Webster's evidence, in which he states, that Lieutenant-Colonel Munro came, as if with an order from me, stating that Colonel Davis need not give himself the trouble of going out of his house, or getting into his palanquin. The course which common sense and reason prescribe as necessary to trace my agency or participation in this act, is that of shewing, in the first place, that I actually issued the order. The default of that preliminary fact cannot be aided by the mere declaration of others, that they acted by my authority. If such evidence, on the most superficial view, did not strike you as dangerous in respect of precedent, and inconclusive in point of fact, I might, in vain, by my own solemn declaration, which I make in all sincerity and truth, wholly disavow all privity

or concurrence in the restraint of Colonel Davis.

It may be said, however, that I was a member of that Committee of Officers, and therefore answerable for its acts; and that the fact is implied from Lieutenant Beaumont's statement of that which Colonel Munro said to him, namely, that Colonel Bell and the Committee of Officers had not yet determined whether Colonel Davis had permission to go to Mysore. I must again deprecate this loose and imperfect testimony. And yet, that it may not leave the slightest impression on your minds, refer to the minutes of this proceeding, and you will find abundant proofs that I never was a member of that Committee, and that in no respect I adopted their acts by my acquiescence or concurrence.

It is to be collected from Mr. Boswell's statement, that I had complained to him of the extinction of my authority in the garrison. If by a harsh and severe rule of reasoning, any man infers a species of acquiescence in that assumption of authority, from my apparent silence on the subject, he has formed but an imperfect con-

ception of the difficulties with which I had to struggle. To subdue the agitation by menace, to repress it by power, to read lectures on obedience and submission, might have been efficacious in a less fevered and morbid state of mind than that which I had to deal with. It was impossible to escape. The slightest indication which I might give of such an intention, would have been the total annihilation of that little influence which remained to me. By securing the confidence of the officers, I hoped to exercise that influence (as you will see when you advert to the sentiments breathed in my letters about this period) in dissuading them from violent and intemperate opposition. Even my faint shadow of authority contributed to the preservation of quiet. Had I leaped from the walls, or escaped by stratagem, I should have been liable to animadversion for an act of doubtful expediency, whatever might have been the result. I believe the very attempt would have failed. But, had it succeeded, I am sure that consequences would have ensued, which would have thrown into comparative insignificance the seri-

ous mischief which we all deplore. I have disclosed to you the principles of my conduct. If my judgment has erred, the indulgence which is extended by enlightened minds to human frailty, in new seasons and new difficulties, will not, perhaps, be withheld from mine.

That I was not a member of that Committee, will appear from that part of Mr. Casamaijor's evidence, in which he tells you that Mr. Mackintosh had told him that Colonel Bell had resigned the command to a Committee of Officers, and that he was not even privileged to receive a letter. He understood, also, that I was not even privileged to receive a letter without the sanction of a Committee of Officers, and that he must address them, if he wished to communicate with the authority of the garrison. This, perhaps, presents an adequate idea of my authority at this moment, and of my disconnection with what was then transacting. The implied resignation of my command to the Committee, is not, indeed, accurate, for resignation implies volition. I had no volition. I yielded to necessities with honest and sincere intentions.

I advert to this part of Mr. Casamaijor's evidence, because it illustrates a fact which has been adduced against me: I mean, my returning the letter enclosing the test, on the 31st of July, with a private intimation to Colonel Davis, that it was at the peril of my freedom to receive any public communication. As for the tearing the envelope, and the subtraction of any paper it contained, I here seriously disclaim it. Captain Bishop, Major Macdowall, Major Freeze, negative, I think, distinctly, my participation in the procedures of the Committee. The former, Captain Bishop, tells you, that he received orders till about the 4th, signed "Committee." It is impossible not to make this observation. Had I been concerned in it, or even privy to its procedures, in any other manner than by conjecture, would not my name, in common probability, have been signed to their orders, to give them the shew and semblance of authenticity? For you see that, in other instances, my name was pretty freely made use of, where it answered the purpose of the moment. Major Freeze also states, that the reply to the letter

addressed to me by Lieutenant-Colonel Davis and Mr. Cole, was signed by Colonel Munro, and Major Kenney, and himself. I allude to the letter in which those gentlemen, Colonel Davis and Mr. Cole, with regret and horror, conclude that "the officers intended to oppose Government at all events." It seems, also, that he understood my reason for not signing it was, that I had already signed the test.

I must beseech you to attend most minutely to this circumstance. This letter from Mr. Cole and Colonel Davis of the 3d of August, is produced by the prosecutor, obviously for the purpose of affecting me with notice of its contents, and of shewing that I carried on a resistance to the authority of Government, after I had received the warnings and denunciations contained in it. But my knowledge of the letter or its contents, is a matter to be proved, not to be conjectured. There is not a syllable of evidence by which it can be traced to my hands. The answer to it was written by the officers; which, of itself, furnished a strong ground of conjecture that I had not even seen it. I had signed the test. I had complied

with the only orders of Government or of Colonel Davis I ever received. The letter, therefore, did not apply to me. And when Colonel Davis, in his answer to my letter accompanying the test, with my signature to it, observed to me, on the evening of that day, that "his house and heart, and those of Mr. Cole, were open to me," it is obvious that he did not consider me as one of the persons whom that letter was written to admonish or to threaten. He would not have opened his heart and house to a mutineer. He must have considered me nearly in a state of coercion. The reiterated intimations I had given him of the extinction of my authority, and the agitation of the place, must have impelled him to this conclusion. It is evident, therefore, that down to the 3d of August, he considered that I had headed or committed no mutiny. He would otherwise have disdained to accept my signature to a pledge of fidelity, which my conduct must have so loudly belied.

If it is asked, why, on the receipt of the instructions of Government, did you not call the officers together, and, by your example and re-

monstrances, urge them to sign the test? Consider, I beseech you, what Major Macdowall has said on that head. He tells you, that had I ordered the officers to sign the test, I should not have been obeyed. He might, in truth, have gone further. He might have told you, as I shall prove hereafter, that, had I given such an order, I should have been in immediate restraint. If I am asked, why did you not, on receiving from Colonel Davis his assurance that his house and heart were open to you, instantly leave the garrison, and fly thither for an asylum? My answer to the question, if it is gravely put to me, is this: had I meditated such an escape, I could not have effected it. There is, however, another aspect in which it might be viewed as a question of duty. To quit my station without an order, at such a season, might have been conduct reconcilable rather to personal prudence than public duty. If, however, in this part of my defence, I had to combat with a captious and cavilling tribunal, it might be said, "True, you had no order to quit your station; but how can we believe your own statements of your good

intentions, or assent to your own reasonings, without proof to support them?" To such an objection, what would be said, when I refer you to one of my letters, written on that very 3d of August, to Colonel Davis, and now in evidence against me, in the postscript of which I tell that officer, that "I am sorry to say what I foretold, as to the officers, has taken place. I shall remain here as long as I can do any good, and till I receive your orders to the contrary."

This, therefore, is the light by which my conduct, if it has any thing dubious or problematic in it, ought to be illustrated. My object, from first to last, was to avert the effusion of blood; to soften, if I could, not heat the irritation; and, by acts of a salutary compromise and moderation, to mitigate the evils that threatened us. Yet, whilst this was the hope that animated, and the impulse that urged me, I would instantly, and at any peril, have obeyed, or made an effort to obey, any military order to quit the garrison. The truth is, I received no order whatsoever.

Try me, however, by my acts.—I signed the

test. I have already shewn that the attempt to persuade others to have done it would have been hopeless. On the 3d of August, the man who stands before you for having, between the 30th of July and the 23d of August, headed a mutiny against the Government, gave a solemn pledge of obedience to that Government, against which he is pretended to have rebelled.

There may, however, be an insinuation lurking in this very fact, of which it is impossible I should be unmindful. It may be whispered, that I signed the test as a disguise, and in subservience to my real intentions. I wear not, gentlemen, any more than the rest of you, a suit of armour to repel insinuation. I can only appeal, in confutation of it, to the whole of my life, and the general complexion of my character. Possibly there are amongst you who may not be ignorant of either. They can best tell, whether among my habits and dispositions are to be numbered those of hypocrisy, or deceit, or low cunning, or any of that family of vices. For myself, I can solemnly appeal to Him, from whom all truth emanates, that I signed that pledge in

the genuine spirit of obedience. And you, gentlemen, have one criterion by which you can estimate the sincerity of this protestation; for, antecedently to this third day of August, there is no act that can be alleged against me, which does not defy all blame or crimination. If criminal intentions are essential to crime, and if acts are the interpreters of intentions when those acts are criminal, it would be a perversion of justice to deny, that they equally indicate intentions when they are innocent.

A species of proof has been resorted to in this case, which the lawyers call accumulative, that is, the accumulation of little facts and petty circumstances. A century and a half has glided away since that doctrine died a natural death. I do not, however, complain of its revival on the present occasion, because there must be a penury of material proof against me, when so much idle industry is expended in dragging up forgotten conversations and straggling expressions, to bear testimony against me. Of this kind is the very insignificant fact sworn to by Lieutenant Cadenski, that he heard a noise of guns moved about,

in a garrison in which the guns were ordinarily moved every day! My expression of "Mysorean rascals," and the singular and whimsical order, it seems, that I gave that officer who was on guard at the Bangalore gate, to fire not only on an enemy who might be passing the Bangalore bridge, but on all armed men on the Mysore road, which is, at least, half a mile distant! He was asked by the Court whether any persons were present at this conversation? None. This is a kind of testimony which he against whom it is intended is necessarily unable to contradict. There is, however, providentially, a mixture of absurdity in this statement, that the mention and refutation of it must be one and the same thing. I impute nothing of discredit to the witness. In seasons of agitation and alarm the memory is clouded.

I must have wearied the attention of the Court by detaining them so long in what may be deemed only the preliminary part of the subject. Observing, however, that the prosecutor's object in overloading the cause with an accumulation of facts, was that of shewing me to have been

the first mover of the commotion from its earliest stages, you will excuse the minuteness with which I have remarked on them. There remains but one further circumstance that requires a comment, before I proceed to answer the several allegations of these charges. — I mean the order which I gave Lieutenant Adamson to remove the detachment of the 80th.

If you have done me the honour to follow me in the progressive exposition of my conduct from the 30th of July to the 3d of August, you must do me the justice of admitting it to be reconcilable to a most earnest anxiety for the peace and tranquillity of the garrison. You must also have framed a pretty correct estimate of the state of things in which, with a crippled and imperfect authority, I had to exercise what little influence remained to me in averting the worst of evils. The alarm and consternation in the garrison had received a dreadful augmentation from the transactions of Trichinopoly on the 30th, where Colonel Wilkinson having proposed a test to the officers of that station, which, from the manner in which it was proposed, and from

other circumstances, they considered as a signal to cut the throats of their brother-officers, placed them, on their refusal to sign it, in charge of a guard of Europeans with fixed bayonets, with absolute orders to fire upon them if a rescue was attempted. Amidst terror, suspicion, dark and mutual distrust, many obscure and indefinite reports were wandering about, as Major Macdowall tells you, that so far back as the 20th of July, the detachment of His Majesty's 80th had been employed three or four successive nights in making up cartridges, as hostile preparations against the garrison. Whether this was the fact I do not enquire. It is sufficient for me, that in that distempered state of the garrison it was universally believed. Under such circumstances, I thought, as every rational man would have thought, that a mere handful of men were no longer safe within the walls.

My motives are elucidated in my letter to Colonel Davis of that day, intimating the dangerous impression which the conduct of that detachment had made on the artillery, and that I could no longer be answerable for the safety of so

small a number of king's troops, who were considered as occupied in hostile designs on the rest of the garrison. And here it is impossible not to admire the singular fatality which has made a meritorious act, suggested by an anxiety for the rest of this detachment, an act, of which the avowed must have been the real object, into a matter of accusation against me. No ingenuity can torture this plain and simple procedure into any other than its obvious purpose. Will it be said, that, being at that time the leader of a mutiny against the Government, I was desirous to remove the king's soldiers into a place of safety; that with such designs, and when in furtherance of those designs, a petty detachment of an hundred and twenty men might, in ten minutes, have been disarmed, and rendered inefficient to counteract the mutinous proceedings which I am said to have headed. I requested them to go out, with all their arms, as a precaution strictly necessary for their security?

I shall now proceed to the alleged overt act of seizing the public treasure. I am spared the necessity of a minute or elaborate answer to this

part of the charge, because I have already shewn my entire disconnection with the proceedings of the officers, who had taken upon themselves the military authority, at the time when the treasures of Mr. Casamaijor and Mr. Paymaster Smith are said to have been seized.

In so grave an accusation, it will not be more the prerogative of an accused man, than the presiding principle of the judicature before which he stands, to require the acts charged against him to be fully and legitimately proved, and to adhere to known and recognized rules, lest frail and fallible presumptions, or loose and unfavourable conjectures, may take place of that strict and precise rule of investigation, which leads to judicial truth by the most direct and shortest process. Turn, therefore, to Mr. Casamaijor's evidence, and examine whether any proof is to be collected from it, of my having seized the treasure committed to his charge. Captain Turner said he acted by Colonel Bell's orders. If what Captain Turner said to the witness was adopted as conclusive evidence of my having given the order, of course the act would be

mine, with all its responsibility. But, waving all exception to the proof, admitting it, if uncontradicted by any other fact, to be a fair inference of my having given the order, the very next sentence of Mr. Casamaijor's deposition brings forward a circumstance, which plainly shews that it was not by my order that Captain Turner was acting. For, upon Mr. Casamaijor's beginning the draft of an official letter to Government, stating that it was by my order the treasure was detained, Captain Turner immediately objects to the mention of my name, remarking, that though he had Colonel Bell's sanction, he had not his permission to say so. I think this incident must have induced the Court to draw the conclusion, that my name was used for the purpose of the moment. Had I given the order, Mr. Casamaijor, as a matter of course, would have stated that fact to the Government, without the slightest objection on the part of Captain Turner. Subject to the same observation is that which Captain Cadell told Mr. Casamaijor, concerning the memorandum he said I was making of the reasons

tor securing the treasure. In a subsequent passage, Mr. Casamaijor clearly shews the improbability of my ordering, or even conniving in that transaction. He tells you, that he found I had no command; that I was unauthorized even to receive a letter without the sanction of the Committee, to whom all communications with the authority of the garrison must have been addressed. Here, then, is a complete solution of all doubt on the subject. The occupation of the treasure by me, or my order, remains not only not proved by regular and legal evidence, but there is regular and legal evidence which disproves it.

This brings me to the treasure of Mr. Paymaster Smith. It seems that Captain De Haviland and Captain Cadell told Mr. Smith, that they were commissioned by a board of officers, to require a statement of the coin in his charge. To what extent this fact is to operate against me, I have yet to learn. That Mr. Smith understood from Captain Cadell that the guard was placed over his treasury by me, amounts to no more. Nor does Captain Cadell's letter of the 31st to Mr. Smith, in which my name is also

mentioned, carry it at all further. It does not even approximate to evidence. I confess, gentlemen. I am astonished at the slender, vague, and uncertain proofs, on which the prosecutor has attempted to charge me with the seizing of the public treasure. It is true, Rungapah talks of the conversation I had with him. in the course of which I said I would be the paymaster. But this was on or about the 6th. The treasure, if it can be called a seizure, had been seized before by persons who, as Mr. Smith himself informs you, had received their commission from the Committee of Officers. And Mr. Smith also says, he received no other answers to the letters he wrote to me, but that a verbal message was brought to him, stating that they would be taken in consideration; a circumstance clearly indicating that a deliberation was to be held upon it by the Committee. With the seizure I had nothing to do; and when you advert to that fact, which almost every witness conspires to prove, that on the 31st the whole military power was in the hands of those officers, it will be placed beyond the reach of contradiction

The allegation of the charge is the seizure of the public treasure. If it appears, therefore, that I did not seize it on the 30th of July, I am surely not culpable for taking charge of it on the 6th of August. I was influenced to that measure by every motive of duty and necessity. It was to secure it from depredation during the absence of the person to whom the custody of it had been committed: to take care, on my own faith and responsibility, that it should be disbursed and applied to the purposes for which it was intended. True, I said to Rungapah, your master has run away. This is the cause of all this confusion. "I will be paymaster." I am sure, that when you consider this act of seizure as the act of others, (for it has not been shewn to be mine,) you will not visit me with much harshness of animadversion for taking care of it after it had been seized, and appropriating it to the ordinary exigences of the service. You see that the treasure was administered, in every respect, as it had been done before: the keys kept by the same servants: the monies disbursed for the King's and Company's uses, as before. Not the

smallest subtraction or misappropriation. I justify this act as an act of strict duty and inevitable necessity. The treasure was to be taken care of, or to be lost. The person to whose custody it had been entrusted, had abdicated his office. I cannot clearly see what other procedure my duty to my employers could, under such circumstances, have suggested. Pay could not have been prudently withheld from the garrison. Perhaps it would have been impossible to have put the fidelity of the sepoys to a more perilous test. And had I refused to sanction the necessary payments, after the paymaster had abandoned his functions, I might probably have stood before you under different charges, accused of having betrayed the duty of an officer, and the interests of the Honourable Company, by measures resulting in the mutiny and insurrection of their native troops.

If these reasonings are just, I can feel but little apprehension from the other fact, brought forward as a seizure of treasure. It was reported that treasure, destined to Seringapatam, had been stopped on its way. By what authority?

By persons, who without any written document whatsoever, gave verbal orders to take the treasure, by a circuitous route to Mysore. Now, there is no evidence to shew that I ordered the detachment out on that occasion; and you will not supply the absence of proof so material, by conjecture. Yet, were I to admit that I had given the order, I would rest its vindication on the strict propriety and necessity of securing a treasure, which had been intercepted without any authority whatsoever. It would, at any time, be a matter of strict duty to have taken the necessary steps for its protection, as soon as the Hamildaar made the report of its having been stopped.

After all, what does this seizure of treasure amount to, in whatever aspect it is considered? Mr. Casamaijor's remained secure and untouched. Mr. Smith's was regularly disbursed for the exigences of the service, without which the Honourable Company's troops would have been reduced to famine. The money from the ceded districts was secured from depredation, (for the stoppage of it without authority is nothing less,)

and safely lodged in the place to which it was destined. Not the slightest misappropriation of this treasure, which I am charged with having seized. If, however, the protection and security of the treasure be deemed a criminal seizure in your eyes, turn to the evidence, and you will find, that from all share and participation in it I am completely absolved.

You have now travelled with me to an important date in the series of these transactions. On the 6th of August it seems that I was requested by the officers to command the garrison; a fact which unanswerably shews, that before that time I had no command whatever. You will, of course, deem it probable, that whatever agitations and disorders prevailed before, I am not responsible for these; for my interposition would have been useless and impotent. I have shewn, not by my own uncorroborated statements, but by the evidence actually recorded against me, that I disobeyed no orders on the 30th; that I carried the orders I did receive into speedy and diligent execution; that in the real or imaginary restraint of Colonel

Davis I had no share; that I had no concern in the proceedings of the Committee; that I had no control over others. All that my imperfect authority could effect towards the restoration of tranquillity, you will perceive that I effected. That fearful of the safety of a small detachment of one of His Majesty's regiments, I urged their removal as a mere matter of precaution; that I did all that the Government required of me: that I cheerfully gave the proffered pledge of obedience: that when I returned that pledge, with my signature, to Colonel Davis, I intimated to him, that, although desirous of staying in the garrison as long as I could do any good, I would obey any orders he would give me; that, in truth, I received no order at all, or even a suggestion sufficient to impose upon me a clear and definite rule of conduct. Your own conceptions will supply much of what must be left imperfect in this picture. You may conceive (some of you may, in part, have experienced) the embarrassments with which I was beset, the jealousy with which I was watched, the conflict of feelings into which I was thrown.

by the very solicitude I felt to discharge my duty. You may imagine a state of things, where the lines that divide duty from disobedience are so faint and shadowy, that from human candour will be demanded its most benignant allowance to human error. If, in such a season, the feet falter, or break and snap asunder some of the nice and minute threads and filaments which entangle them, who is there that will pronounce a severe condemnation? It is then you will look to the intention, as the index and criterion of the action. It is then, also, that, weighing the difficulties and the perils to be encountered, you will not, when you discern the honour and the rectitude of the heart, withhold that enlarged and liberal discretion, which consists in the prudent choice of evils; in bending, as it were, beneath the storm; in the temporary submission to necessities; in the adaptation of conduct to times and circumstances.

I shall now consider the only remaining heads of accusation — the firing on the troops, and the refusal to deliver up the Fort to the proper authorities. See whether the intentions which

have hitherto animated me, will be found, in this maturer state of the transaction, to have departed from me? Another question will perhaps present itself, Whether, in the new and extraordinary combination of circumstances which had arisen, a sound discretion was not conferred upon me, of averting a bloody conflict between fellow-soldiers and fellow-citizens, by every means in my power?

From what you have already collected concerning the fevered state of the garrison, the feelings which prevailed, and the passions by which the officers were animated, you will be enabled to form a faint idea of the difficulties with which I had to struggle. Could I escape? That was impossible. Had it been possible, could I have deserted my post? It was my maxim of duty, that I was bound to stay so long as I could be of any use, so long as I could preserve quiet by my remonstrances, my intreaties, and what little of authority remained to me. Had I received any order to quit the garrison? None. Had I received any I would have made the attempt, though it must have been imme-

diately defeated. I had given an intimation to Colonel Davis, in the letter above alluded to, that I would stay as long as I could do any good, or till I had his orders. His silence implied an acquiescence. He gave no orders to the contrary. The letter in which he observes "the garrison were determined, at all events, to oppose the Government," was neither received, nor replied to by me. Could my influence induce the officers to deliver up the Fort? In the first place, no orders to that effect were ever given. In the second, the very attempt would have been ridiculous. Under such circumstances, I resolved, by every expedient within my power, to restore discipline and obedience, and to quiet the exasperations, which might otherwise break out into the most fatal and pernicious measures. It is for this that I have been dragged hither as a criminal.

With these views I reassumed the command. I thought that in the hands of a man anxiously bent on peace, and order, and subordination, the control would be exercised with better chance for the public interests than in the hands

of seventy or eighty. Am I a criminal for having thus thought and thus acted? Had I declined it, I should have remained within the walls of Seringapatam a mere prisoner, stripped of all influence to control, to check, or admonish. Every thinking man must tremble, when he conjectures what might have resulted from such an anarchy.

That these motives animated me, is not my own unsupported assertion. They are to be traced in the uniform language and sentiments of my letters to Colonel Davis, when the military power was exercised by the Committee. Those letters have been produced, no doubt, to shew that my intentions were criminal. Review them, and you will find that they warrant no such conclusion. But, amongst those letters, I was not a little astonished that one to Colonel Davis, so late as the 5th of August, did not make its appearance. It would have been an important document; because it would have clearly demonstrated what intentions I cherished, and with what motives I was influenced on that day. It was written the day before the revival

of my authority. All communications between Colonel Davis and the garrison had ceased on the third. Large bodies of Mysore troops had appeared in movement. They had cut off the supplies of the garrison, and had committed other acts of irregularity, by seizing and detaining persons on their way from or to the Fort. In the total cessation of all intercourse between the garrison and Mysore, and the suppression of all intelligence from every quarter whatsoever, this circumstance had excited sensations the more vehement, as it was mysterious and obscure. No man could believe that it had entered into the head or heart of any British subject, to let loose the troops of a native power upon an English garrison, to teach a dangerous theory, which might hereafter be practised to the destruction of our empire. It never was imagined that such a procedure was authorized by the Government. In the midst of the agitation occasioned by this most mysterious circumstance, I rejoiced that the officers who had then the control of the garrison had determined upon the most pacific conduct. Under that impression, I

wrote the following letter to Colonel Davis, which the Judge-Advocate has not yet produced.

"Seringapatam, 5th August, 1809.

"Sir,

"It has been communicated to me, that the officers of the garrison have come to a determination not to be the first to commence hostilities. I have, therefore, to hope, that they will come round in a few days, and follow the steps of their brother-officers, rather than risk the loss of British India."

"J. BELL, Lt. Col. Sen. Officer."

"To Col. Davis."

Such, on the 5th of August, were the expressions of the man who, from the 30th of July, is said to have been at the head of a dangerous and alarming mutiny. You will therefore perceive, if this letter speaks an unambiguous language, that, so late as the 5th, I indulged the hope that the officers would follow the steps of their brother-officers, by signing the test, and that, instead of meditating revolt and conspi-

racy, my heart was occupied with the solicitudes of a man loyal to his king and his country.

With this hope, I rejoiced that my authority returned to me. How could I predict that, directing my efforts to these ends, and feeling these solicitudes, I could have been considered as heading a mutiny? And here I cannot but lament that Lieutenant-Colonel Davis should have disdained all consultation with me on the measures to be adopted. To the best of my humble talents, and with a loyalty as sincere and unaffected as his own, I would have rendered him my assistance towards the restoration of peace and discipline. But other counsels prevailed. I will boldly assert, that the want of confidence, which was warranted by nothing either in my character or conduct, has been the source of the unfortunate train of events which you are now investigating.

There was still, however, another powerful inducement to soothe and conciliate the agitations of the garrison, which was actively alive in my mind. I mean, the expected arrival of Lord Minto. This, combined with other cir-

cumstances, will explain many of my letters The British empire was endangered by the conflict between the army and Sir George Barlow. The open opposition of the Hydrabad force, (who, being the leaders and agitators of these tumults, have been the first objects of amnesty,) made the danger, in my eyes, almost gigantic. Cut off from all communication and intelligence, probably it loomed, as it were, larger than it was, from the darkness in which it was kept. It was a time when a man, bent on the restoration of discipline, might be pardoned much wider deviations from duty than can be urged against me. The magnitude of the stake might well excuse some errors in the game. Contemplating the extent and size of the peril; the more than dubious policy of employing against British troops, a native ally, naturally jealous of our dominion, and disposed to avail himself of every discord amongst ourselves, which might weaken or undermine our authority: the conviction that such a measure would receive no countenance from any Government which was watchful over the interests of our Indian empire:

the assurance that such a measure, if adopted by the local Government, would draw down from their country the most tremendous responsibility for the awful trusts they had abused; but above all, the certainty that whatever were my sentiments, the garrison would be defended to the last drop of blood within its walls, against the assaults of the Mysoreans; all these considerations rendered me solicitous, by a temporizing policy, to avert the conflict; to prevent the shedding of civil blood; and to evade a struggle with a native power, in a cause in which victory would have been the worst of defeats, and success the most fatal of calamities. For this reason, as I told Colonel Davis, I considered the Fort confided to my charge; and referred to the supreme authority the decision of a question so wholly new and unprecedented.

But you will not be at a loss to discover the reasons and the motives by which I was influenced. A mere delay was all that I solicited. I knew the enflamed spirit with which an attempt to take the garrison would be repelled. I knew that any order I might be inclined to give

for its surrender would be unavailing. I had, therefore, before my eyes, the dreadful horrors of a civil war: of which, if the sword was once drawn, I foresaw that my authority could not assuage or restrain the fury. As a man, I felt for the sufferings of man in such a contest. As a British officer, I felt for my fellow-soldiers and countrymen, whose blood would have been poured out in an ignominious quarrel, by a native soldiery. I was desirous, therefore, that the sword might remain in its scabbard, not, as I considered, for an indefinite period, but for a slight and inconsiderable interval, till the arrival of Lord Minto, who was then hourly expected.

Put yourselves into my situation, and ask whether, acting under the influence of such feelings, I am to be condemned as a Mutineer? Human conduct is to be tried, not by its dead letter, but by its living and active spirit. It was to spare the inevitable effusion of blood, that I wrote the letter of the 6th of August to Colonel Davis, to incline him to forego the attempt to direct the Mysore force against the place, (an attempt of which the success and the

failure were equally to be deprecated,) to leave us, as it were, in a harmless tranquillity for a few days, till the determination of Lord Minto was pronounced. From the style of my letters it will be seen, that the arrival of the Governor-General was hourly expected. Cut off from all public intelligence, I knew nothing of the unfortunate delay that had retarded it. I requested Colonel Davis to forward my letter to his lordship, expecting that it would find him at Madras. Is this a mutinous refusal to deliver up the Fort to the proper authority?

Under the assurance that scarcely a day could intervene before Lord Minto's arrival, and almost convinced that he was then at the Presidency, I considered, if I could ward off the evil for a few hours, or, at most, a few days, I should act according to the strictest obligations of policy and duty. The proclamation of Lord Minto, dated the 20th of July, had announced his determination of coming to the coast; and no other construction could be put on his resolution, but that he was coming to prevent the consequences of civil warfare, to mediate, to heal, to hear, to conciliate, to redress. His

proclamation inspired these hopes: and every countenance on which gloom and despondence had so long sat, beamed with expectation. These expectations received strength and confidence from the known character and disposition of his lordship. The eyes of all were turned to a man, who had not learnt the art of government at his office, or surveyed mankind from his desk, but to a man whose knowledge of human affairs had been enlarged by a British education, and whose mind had been liberalized by British habits of thinking and feeling.

From such a man, it was not to be supposed that, coming professedly for the purpose of enquiry and redress, he would suffer himself to be misled by those, whose interest it was to deceive him, or surrender himself into their hands, the instrument of their passions and resentments. Adverting to the avowed object for which the Governor-General announced his intention of repairing hither, I considered that by delaying a conflict, which every good man must have deprecated, I should be acting in literal subservience to his views and inclinations.

But you will observe, that to my letter to

Colonel Davis I received no answer. I had no order to deliver up the garrison. And surely, gentlemen, when the intentions with which I acted in an emergency totally new, are taken into consideration, some doubts might remain whether an order, an attempt to execute which would infallibly have led to the sanguinary conflict I hoped to avert, would not have furnished that new modification of military duty,* which has been applied by high authority to cases of infinitely less moment than that in which I was obliged to act. If there is a time in which a military man may pause and deliberate concerning the execution of an order; if he is ever absolved from the ordinary obligations of obedience, it is when in the total absence of a rational utility, or an over-ruling necessity, he is called on to deliver up his fellow-creatures to slaughter and destruction. Had I been convinced that no other purpose was in the contemplation of those who urged the garrison to extremities, but that of obtaining for themselves a sort of excuse

* Lord Minto's Letter to Sir G. Barlow, May 27, 1809.

in the violent and irregular conduct of the army, even then the duty I owed, both to God and man, would have well excused a reluctance to become the instrument of so detestable a policy.

Happily, however, I do not require the aid of such reasonings. I gave no refusal to deliver up the Fort to the proper authorities. I received no order to do so. But it is beside the purpose to talk of refusal, when I knew that the officers of the garrison were determined to defend the Fort against the expected assault of the Mysoreans, to the last drop of blood, and that my authority would have been wholly incompetent to restrain the conflict, had it once commenced. What then was to be done? I endeavoured, by my letter to Colonel Davis and to Pooniah, in the true spirit of a man anxious to avoid a most dreadful evil, to dissuade them from the attempt of taking the garrison, which would inevitably have been opposed with the most determined spirit, and have terminated with mutual loss and bloodshed. This will be the true commentary of my letters to Colonel Davis and Pooniah, as well as of those to Lord Minto,

from which it will be plainly perceived, that, conceiving there was already a suspension of the local Government by his lordship's arrival, I referred myself to the supreme Government for the line of conduct I was to pursue, and stated the measures into which I had been compelled by the preparations to assault the place, which had excited a determined spirit of resistance in the officers under my command. This is my offence. A reference, not a resistance, to the proper authority. Whatever may be my fate, I shall turn to this passage of my life, and review the motives which influenced it with a satisfaction which no external circumstances can impair or diminish.

I had vainly hoped that thus temporizing with a most portentous evil, I should have warded off the evil I dreaded. Some allowances are due to my situation. From the first to the last I was ready to obey legal orders, as I professed in my letter to Lord Minto. Colonel Davis treated my communications with the most sullen disdain. I received no order. Had any orders been given me, I should have done what little was in

my power. I should have made the effort to obey them. In the mean time, entrusted with the safety of a British garrison, I was anxious only to preserve it from the horrors which threatened it. This was all that I could do. My authority was circumscribed within these bounds. I have before said that it was wholly incompetent to offer a surrender of the garrison.

My hopes, however, were frustrated, by the events of the 11th of August. Of the nature of my authority, in such a state of things, you may easily form an estimate; and how far I am criminally responsible for having done that which would inevitably have been done by others. If it be said, why did you retain the shadow of an authority which you could not effectually exercise? My answer is, that I retained it from the conviction that the estimation in which I was held by the army in general (an estimation which it is my pride to have obtained and merited) would give some weight to my opinion and remonstrances, and that, if I could not wholly subdue the exasperation, I might, at least, soften and mitigate it. I will

now proceed concisely to state the event of the 11th, and, in the simpiest statement, I trust you will find my fullest vindication.

You will have already observed, that, anxious only for delay, till my reference to the supreme Government was answered, and intent on the prevention of bloodshed, some preparations were made against the threatened attack of the Mysoreans. When it was found that European troops were in sight, my solicitude to avoid a conflict was redoubled. I could conceive, in imagination, the dreadful carnage which must have ensued, if, by a surprize on the garrison, or an attempt to pass the bridge, hostilities had once commenced. I knew that the attempt would have been obstinately resisted. I was anxious, therefore, to evade the evil.

In the mean time, a camp was formed in a position which not a little perplexed me. If the movement of the European force was hostile, it was difficult to reconcile it to any vulgar notion of military operations, that it should have been planted within range of the guns. On the other hand, it is equally difficult to conjecture, that a

garrison in a state of hostile insurrection against the civil and military authorities, should have suffered the encampment to remain without molestation, under the very mouth of their artillery.

In the morning of the 11th, two officers were sent to the camp to enquire concerning the intentions with which the force had been marched, to intimate the references that had been made to Lord Minto, the imprudent situation in which they were encamped, and to assure them that the garrison was in the utmost tranquillity, and had determined most religiously to abstain from any act which might result in bloodshed, till an answer was received to their application to the supreme Government. This deputation, after making an ineffectual attempt to be heard, returned to the garrison. Had this deputation been received, the fatal events of that day would have been averted.

It was about ten o'clock that a considerable body of sepoys were discovered to the northward, advancing towards the Fort. What battalions they were I did not know. As they were approaching the Fort, we perceived that

they were harassed, and pressed upon, in all directions, by the Mysore horse. The safety of so large a body of the Honourable Company's native troops could not but be a matter of considerable anxiety. By what orders they marched, or whether they marched without any, I was wholly ignorant. We observed, however, shortly afterwards, that a detachment of King's troops had left the camp, and were advancing, with impetuosity, towards the sepoys. A scene of massacre followed, which it is painful to call to remembrance. The dragoons and Pooniah's horse began to cut up the almost-defenceless battalions, who seemed straggling in disorder, and apparently exhausted with the fatigues of their march. They had still a considerable distance to traverse before they could reach the Fort. In the mean time, there seemed every probability that the whole would have been cut up before they could come within its protection. The massacre of so numerous a body of troops, every suggestion of humanity, reason, and policy called on me to prevent. No other motive was present to my mind. For this pur-

pose, and animated solely by this impulse, a very few shots were fired from the garrison, which, although from the distance to which they were sent they could have effected no mischief, by their direction, might induce the dragoons and the Mysore troops to desist from the pursuit and slaughter of the Company's battalions. Happily, this effect was produced. Two battalions of sepoys were almost entirely saved from destruction by a firing, of which the object was merely to intimidate those who were pursuing them with carnage.

I cannot see with what plausibility this can be urged as a matter of crimination. I cannot imagine that any man in cold blood would have issued from the seat of Government, one of whose high and most sacred trusts is the paternal protection of the native subjects of India, an order to extirpate so many of God's creatures, before it could have been known whether their movement towards the garrison was criminal or innocent. But I am relieved from all doubt on this head. By the public declaration of Sir George Barlow himself, in a general order

of the 30th of August, these very battalions are exempted from blame, and their innocence publicly proclaimed. What then is the inference? If my statement is true, and is proved in evidence, he, who is charged with having fired on the troops of his Majesty and the Rajah, in furtherance of a dangerous and alarming mutiny, discharged a few harmless shots, which had the effect of saving from destruction two innocent battalions of the Company's army. This is a fact, which will appeal, with resistless force, to the consciences of all who know the nature of our Eastern dominion. Such persons need not be told, that it is an empire, not of physical force, but of moral ascendancy; and that among the mysterious chains by which it is preserved, the strongest and most binding is, that which is grappled round the heart and the affections of those whom we govern.

But if proof is required to attest how remote the intention of rescuing those battalions was, from that of hostile aggression on the Mysore or the King's troops, it is worth while to observe, that the part of the garrison who went out to

cover the retreat of the sepoys, were repeatedly fired on by the troops remaining in the camp; that they did not fire a single shot, although the camp was under the guns of the Fort, and might, without any difficulty, have been destroyed.

I proceed, however, in the melancholy narrative of the 11th of August. The sepoys, who proved to be part of the 1st battalion of the 8th regiment, and the 1st battalion of the 15th regiment, of Light Infantry, for nearly the whole of that day, continued to come into the Fort stripped, plundered, and bleeding. It was found that about 171 were dreadfully wounded: that about 50 lives had been lost; and, amongst these, many of the unhappy followers. I would describe the wretched spectacles who presented themselves in the Fort one after another during the whole of that day; but I find myself unable to convey to you the faintest picture of its horrors. I dwell upon it only as it constituted the necessity on which it was deemed requisite, for the safety of the garrison, by firing on the encampment on that night, to remove it from a position which augmented the commo-

tion occasioned by the cutting up of the sepoys.

On this occasion, as it became me, I did all that I could to restore the confidence of the native troops in the garrison. The feelings, excited by the events of the day, had been rouzed by the dreadful spectacles before their eyes, into a most alarming insubordination. The sepoys of the battalions who had suffered, cried out that they had been betrayed by their officers, who had given them strict orders not to fire a musket.

But the agitation was not confined to these battalions. It had extended itself through the whole native force of the garrison. The cry was for revenge. They called out, in a phrenzy of indignation, to be led out against the camp. In the mean time, reports were circulated that basket-boats were constructing to pass the river, and scaling ladders to mount the walls. Such an attempt, from the dispositions of the officers, and the inflamed temper of the troops, would have ended in a dreadful slaughter. I knew that my authority could not restrain the fury

of feelings, which so many unhappy events had conspired to produce. With the same motives, which, in every stage of these transactions, continued to influence me, anxious to avert so melancholy a contest, and doubly anxious, from the occurrences of the day, to preserve the lives of the garrison, and of those who were acting against it, I deemed it expedient to remove the encampment from the singular position it had taken. A few small shells were therefore thrown at night, so directed as to fall on the skirts of the camp, and warn them of their danger. That there was no other object in firing, is evident, from the simple fact itself, that, had other feelings influenced me, the whole camp might, with little difficulty, have been destroyed. This firing, therefore, like the former, was to intimidate, not to destroy; to avert the horrors of a general rising of the sepoys in the garrison, and to save the lives of those who, it seems, were acting against it. If the question be here again interposed, why did you, by remaining as the nominal and ostensible head of the garrison, incur the responsibility of these transac-

tions? My answer is, again, I could not escape. By remaining there, I was enabled to ward off, by delay, the most fatal of conflicts. I vindicate this act with confidence. I have saved the effusion of innocent blood. I stopped an insurrection in the garrison, the probable consequences of which can be best conjectured by those who remember the fatal incidents at Vellore. The natives of Hindostan are meek and submissive beyond any other example in national character. But they are not dead to the ordinary impulses of humanity. "If you prick them, they will bleed:" if you insult them, they will revenge. They hold their existence by that charter on which nature has written her unalterable and eternal laws.

The witnesses will best speak to the perturbations of the garrison at this alarming period. Women and children did not escape the undistinguishing attack. All that could awaken the feelings of men, and stir them to retaliation, every minute presented to their eyes. Some faint conception may be formed of the agitations occasioned on the very spot, where the poor

miserable and mangled victims had suffered, by those which were produced when the Government account of this day was received in general orders at Hyderabad. They had nearly proved fatal to the country, and every European in it. For it is a solemn fact, capable of easy proof, that when those orders were read, in which it was stated, that the whole of the "rebel force" had been destroyed, the sepoys of that station, instigated by their wives and women in the camp, turned out armed to cut every European throat, and, amongst the rest, those of their own officers. This perturbation was quieted only by the presence of mind of an officer at that station, who assured them that the detail published by the Government was unfounded.

It is with satisfaction that I leave this part of the subject. Whatever may be the event of this trial, the remembrance of that which is thus imputed to me as a crime, shall never depart from me but with life itself. When the recent transactions of India are reviewed by minds untinctured by local prejudices, and unbiassed by local animosities, whatever becomes of me, the

transaction itself will reflect no shame on my memory.

I have scarcely time to advert to the evidence of Lieutenant Grove, as to the conversation in which he says, that I used the violent and absurd expressions he puts into my mouth on that occasion. If the utter inprobability of it be not a sufficient refutation of it, there are persons who were present at the time, who will give it a peremptory contradiction. Little observation also is required, as to what Colonel Munro is stated to have said in the conference of the 14th, in which it would seem that I had expressed a determination to bury myself in the ruins of the Fort, rather than surrender it. In truth, I used no such expression, nor did I authorize him to use it in my name. From the first to the last, I was unable to surrender the garrison. I had no choice. Compelled to stay there, I thought I was bound to do all the good in my power.

I have abstained, as far as justice to myself would permit, from all animadversion on the late members of the local Government, which has terminated in these dissentions. But it is

due to the character of a loyal, high-spirited, and honourable army, to remark, that no fancied oppression, nor trivial grievance, would have driven them into resistance. I am no apologist for revolt. I sympathize with their fortunes. I honour their virtues, but I will not vindicate their excesses. On all occasions I have recommended, with an honest zeal for their welfare, the most submissive patience. But it is, at the same time, not impossible to conceive a state of things, occasioned by the systematic irritation of a public body, which may raise feelings too strong to be restrained by the laws and obligations of public discipline. When these transactions are reviewed, as they most assuredly will be, by the supreme authority of the British nation, it will be a question worthy their most awful attention, whether the disease might not have been cured by temperance and mildness, without the loss of one life, and without any real diminution of power on the part of the Government; and whether, instead of being strictly a contest between the army and Government, it is not to be characterized rather as

a contest with an individual, who has overstepped the legal limits of the authority with which he was entrusted?

But I shall shew, that as soon as the moment arrived in which my influence could be effectually exerted to procure a return of obedience and duty, it was not exerted in vain. I shall shew, that, had it not been for my example and remonstrance, the Fort would not, to this day, in all probability, have been surrendered.

I have thus gone through the whole of this long transaction. If I have wearied you by the length of my defence, my excuse must be suggested by the variety of minute facts, conversations, and expressions, which have been huddled together in support of this accusation. I have shewn, from the first beginnings of it, with what spirit I was influenced; that in the proceedings of others I had no participation; that those for which I am responsible, were not only urged by an imperative necessity, and dictated by the most honourable intentions, but they have averted the most serious calamities.

But even if errors are imputable to me in such

a state of things, are they to be visited on my head as crimes? Is no regard to be had to a situation, in which the best of us might well tremble to be placed? To the embarrassing conflict of opposing duties; to agitation, suspense, hope, fear, and the whole tumult of feelings, which, in such circumstances, might hurl the reason of man from its seat, and deliver his mind to chaos and distraction? I may surely ask you to consider the whole of my conduct, and not in detached and broken passages. Try me by its intentions and its spirit. That is the course of divine justice; which, as far as the frailty of our nature will admit, human judicatures ought to imitate.

In my defence, I shall establish, by evidence, the following points. I shall shew, by those who took a part in these proceedings, that till the 6th of August, the military authority was exercised by the officers of the garrison, and that my authority as senior officer in fact ceased during that time to exist; that had I been disposed, or even attempted to leave the garrison, within the dates specified in the charges, it would have

been wholly impracticable; that had I attempted to surrender the garrison at any time within those dates, the attempt would have been equally unavailing; that the firing upon the 11th was urged as a matter of strict necessity, by the conduct of the native troops on that day, and the inflamed state of the garrison; that there would have been a rising among the troops in the garrison, had not that measure been adopted to quiet their feelings; that when the detachment went out to cover the Chitteldroog battalions, they abstained from all retaliation, in pursuance of their strict instructions to avoid any thing that might lead to bloodshed, though they had it in their power to destroy the camp; that the Chitteldroog battalions, whom Sir George Barlow, in public orders, exempts from all blame, were saved by the firing on the 11th, and brought within the protection of the Fort; that on the 25th of August, when the Hyderabad letter arrived, I gladly availed myself of that opportunity of surrendering the garrison; and that, had it not been for my example and influence, the Fort would not have been delivered up.

I shall call no witnesses to my character. I trust that I need none. I will not even refer to the public recorded thanks, which I have more than once received for my services, from different Governments. The testimonies of my conduct are to be found in the whole of a life dedicated to the service of my country. I shall not remind you of the long, and, I hope, not inglorious career in the service through which I have passed. I might here advert to the length of my confinement. which has been embittered by many needless severities. This might be well considered as a punishment more than equal to any error, or even any offence I have committed. I forbear, however, from dwelling on the subject.

If, however, as I have been day after day ignominiously marched across this very spot, from the place of my confinement to that of my trial, and called on to defend myself against the worst of charges, many of those recollections awaken themselves in my mind, which sometimes embitter the present by recalling the past, they will not appear unnatural: for it cannot

but have occurred to me, as no light visitation of that Providence who humbles us with unforeseen vicissitudes, that on this very spot, in which I have more than once exposed my life for the preservation of the British power in India, it should now be endangered by an accusation of having attempted to destroy it.

But I repose with confidence on your justice. You are emphatically a court of honour. I am convinced, that neither the awe of power, nor the blandishments of hope, nor the allurements of interest, will divert you from the severest rectitude of judgment, on this awful occasion. I know that, disdaining those prejudices, and subduing those animosities, which sometimes bring a man to his trial with anticipated conviction, you will feel, amongst the other obligations of your duty, that of redeeming an innocent man from unjust accusation. With this cheering reflection I shall close my defence, and thank you for the patience with which you have heard it.

Printed by Black, Parry, and Kingsbury,
Leadenhall Street, London.

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